

Federal Communications Commission

DA 96-452

FCC MAIL SECTION

Before the
APR 24 Federal Communications Commission
 Washington, D.C. 20554

MM Docket No. 95-179

In the Matter of

Amendment of Section 73.202(b), RM-8728
 Table of Allotments.
 FM Broadcast Stations.
 (Cassville and Kimberling City,
 Missouri)

REPORT AND ORDER
(Proceeding Terminated)

Adopted: March 27, 1996;

Released: April 19, 1996

By the Chief, Allocations Branch:

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 10 FCC Rcd 1378 (1995), issued in response to a petition filed by Kevin M. and Patricia W. Wodlinger ("petitioner"), proposing the substitution of Channel 261C2 for Channel 261A at Cassville, Missouri, and modification of the license for Station KRLK accordingly. Petitioner also requested reallocation of Channel 261C2 from Cassville to Kimberling City, Missouri, in accordance with Section 1.420(i) of the Commission's Rules. Petitioner filed comments supporting its proposal.¹ Dale Hendrix ("Hendrix") filed a counterproposal.²

2. Based upon the information presented in this proceeding, we believe the public interest would be served by substituting Channel 261C2 for Channel 261A and reallocating the channel from Cassville, Missouri, to Kimberling City, Missouri, since it would result in a preferential arrangement of allotments pursuant to the Commission's change of community procedures. See *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recond. granted in part*, 5 FCC Rcd 7094 (1990). Kimberling City is located in Stone County. It is an incorporated community with its own post office, zip code and banks and is listed in the 1990 Census. We believe Kimberling City is an independent community deserving of its first local transmission service. Kimberling City (population 1,590 people)³

would receive its first local service, thus triggering allotment priority (3).⁴ This action will not deprive Cassville (population 2,371 people) of local service as Station KRMO(AM) is licensed to the community.⁵ Moreover, as Kimberling City is not located within an urbanized area, the reallocation will not result in the transfer of a station from a rural to a larger urban area. The closest urbanized area is Springfield, Missouri, which is approximately 50 miles from Kimberling City. Since petitioner is moving its transmitter site, there will be a gain and loss area. The loss area at Cassville contains 6,831 people and covers approximately 676 square kilometers (261 square miles). The gain area at Kimberling City contains 94,229 people and covers approximately 7,219 square kilometers (2,787 square miles). While we carefully evaluate any proposal that would result in the loss of existing service, the loss area of Channel 261A at Cassville is completely covered by at least five full-time reception services and is, therefore, considered to be well served. Therefore, in accordance with Section 1.420(g) and (i) of the Commission's Rules, we will modify the license for Station KRLK to specify operation on Channel 261C2 at Kimberling City, Missouri, in lieu of Channel 261A at Cassville, Missouri.

3. Channel 261C2 can be allotted to Kimberling City, Missouri, in compliance with the Commission's minimum distance separation requirements with a site restriction 17.5 kilometers (10.9 miles) south of the community.⁶ The site restriction will prevent a short spacing to Station KBFL, Channel 260C3, Buffalo, Missouri, and to Station KGMF-FM, Channel 263C2, Aurora, Missouri.

4. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **June 3, 1996**, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the communities listed below, to read as follows:

Community	Channel No.
Cassville, Missouri	---
Kimberling City, Missouri	261C2

5. IT IS FURTHER ORDERED, pursuant to the authority contained in Section 316 of the Communications Act of 1934, as amended, that the license of Station KRLK, Cassville, Missouri, IS MODIFIED to specify operation on Channel 261C2 at Kimberling City, Missouri, subject to the following conditions:

¹ The *Notice* questioned site availability for Channel 261C2 since Kimberling City is located inside the Mark Twain National Forest. Petitioner provided a letter from Lawrence Manser, a local resident, agreeing to lease or sell a five acre tract of land on which to construct a tower that will meet the Commission's spacing requirements and provide city grade coverage to Kimberling City.

² Hendrix requested the allotment of Channel 261C3 at Deerfield, Missouri, as that community's first local service. However, since the proposal for Deerfield is not in conflict with the communities in this proceeding, we have accepted the proposal and issued a separate Notice of Proposed Rule Making

(RM-8758).

³ The population figures are taken from the 1990 U.S. Census.

⁴ The FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. [Co-equal weight is given to priorities (2) and (3).] See *Revision of FM Assignment Policies and Procedures*, 90 FCC 2d 88 (1982).

⁵ A license for Station KRMO(AM) at Cassville, Missouri, was granted on November 29, 1995 (BL-950906AC).

⁶ The coordinates for Channel 261C2 at Kimberling City are 36-30-00 and 93-23-00.

(a) Within 90 days of the effective date of this *Order*, the licensee shall file with the Commission a minor change application for construction permit (Form 301), specifying the new facility.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

6. IT IS FURTHER ORDERED, That the counterproposal filed by Dale Hendrix IS DISMISSED.

7. IT IS FURTHER ORDERED, That the Secretary of the Commission, Shall send by Certified Mail, Return Receipt Requested a copy of this *Order* to the following:

Dale Hendrix
872 Allen Road
Murfreesboro, Tennessee 37129

8. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Kevin M. and Patricia W. Wodlinger, licensee, of Station KRLK, is required to submit a rule making fee in addition to the fee required for the applications to effect the change in community of license and upgrade.

9. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

10. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau